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P Practitioner's Docket No. 1348/111

PATENT



Tatent application			
	Inventor(s)		
for			
	Title of invention		
	OR		
In re application of: Percival			
Application No.: 10/709,040	Group No.:	2186	
Filed: April 4, 2004	Examiner:	N/A	
For: A Method and System for Cohere	ently Caching I/O Devices	Across a Network	

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT WITHIN THREE MONTHS OF FILING OR BEFORE MAILING OF FIRST OFFICE ACTION (37 C.F.R. SECTION 1.97(b))

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. SECTION 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

[x] deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date:

August 31, 2004

FACSIMILE

[] transmitted by facsimile to the Patent and Trademark

Office.

Signature

Robert M. Asher

(type or print name of person certifying)

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office Action--page

1 of 3)

NOTE:" An information disclosure statement shall be considered by the Office if filed by the applicant: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in section 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 C.F.R. section 1.97(b).

NOTE: The "filing date of a national application" under 37 C.F.R. section 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark office, the filing is defined in 37 C.F.R. section 1.53(b) as "the date on which: (1) A specification containing a description pursuant to section 1.71 and at least one claim pursuant to section 1.75; and (2) any drawing required by section 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by section 1.41." 37 C.F.R. section 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. section 371(c) within the periods set forth in section 1.494 or section 1.495. 35 U.S.C. section 371(c) requires the filing of the following: (1) the basic national fee; (2) a copy of the international application, unless already sent by the International Bureau, and optionally an English translation if filed in another language; and, also optionally (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. The optional items must be submitted later, with surcharges. 37 C.F.R. section 1.97(b)(2).

IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 C.F.R. section 1.97(b).

- NOTE: "No certification or fee is due when the filing is made within the above time period. It is advisable to ensure that no Office action has been mailed if the disclosure statement is delayed until after three months from filing."
- NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 C.F.R. 1.8, or Express Mail certificate under 37 C.F.R. 1.10. An office action is mailed on the date indicated in the Office action."

 Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirement (37 C.F.R. section 1.142) or just a requirement for additional fees to have a claim considered (37 C.F.R. section 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. section 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63).

SIGNATURE OF PRACTITIONER

Reg. No. 30,445

Tel. No.: (617) 443-9292

Customer No.: 002101

01348/00111 332028.1

Robert M. Asher

(type or print name of practitioner) Bromberg & Sunstein LLP

125 Summer Street, 11th Floor

P.O. Address

Boston, MA 02110

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

for	Inventor(s)
TO THE TOTAL PROPERTY OF THE PARTY OF THE PA	Title of invention
the specification of which is being transn	nitted herewith
DEM: 1	OR
In re application of: Percival	
Application No.: 10/709,040	Group No.: 2186
Filed: April 4, 2004	Examiner: N/A
	tly Caching I/O Devices Across a Network
Commissioner for Patents	
P.O. Box 1450	
Alexandria, VA 22313-1450	
INFORMA	TION DISCLOSURE STATEMENT
	(Information Disclosure Statementpage 1 of 1
I hereby certify that, on the date shown below, th	is correspondence is being:
	MAILING
[x] deposited with the United States Postal Service in 22313-1450	an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA
37 C.F.R. SECTION 1.8(a)	37 C.F.R.SECTION 1.10*
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"Since the filing of correspondence under section 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable C.F.R.e, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

NOTE: "An information disclosure statement shall be considered by the Office if filed by the applicant:

- (1) Within three months of the filing date of a national application;
- (2) Within three months of the date of entry of the national stage as set forth in section 1.491 in an international application; or
- (3) Before the mailing date of a first Office action on the merits, whichever event occurs last." 37 C.F.R. section 1.97(b).

NOTE: "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. section 1.56(a).

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) each inventor named in the application;
- (2) each attorney or agent who prepares or prosecutes the application; and
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. section 1.56(c).

NOTE: The "duty as described in section 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by sections 1.97(b) - (d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13-25 at 17.

WARNING: "No information disclosure statement may be filed in a provisional application." 37 C.F.R. section 1.51(b).

List of Sections Forming Part of This Information Disclosure Statement

The following sections are being submitted for this Information Disclosure Statement:

(check sections forming a part of this statement: disC.F.R.d unused sections and number pages consecutively)

- 1. [x]Preliminary Statements
- 2. [x]Forms PTO/SB/08A and 08B (substitute for Form PTO-1449)
- 3. [| Statement as to Information Not Found in Patents or Publications
- 4. [x]Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted
- 5. []Cumulative Patents or Publications
- 6. []Copies of Listed Information Items Accompanying This Statement
- 7. []Concise Explanation of Non-English Language Listed Information Items
 - 7A. []EPO Search Report
 - 7B. []English Language Version of EPO Search Report
- 8. []Translation(s) of Non-English Language Documents
- 9. []Concise Explanation of English Language Listed Information Items (Optional)
- 10. [x]Identification of Person(s) Making This Information Disclosure Statement

(complete the following, if appropriate)

Sections , respectively, have been continued on ADDED PAGE(S).

NOTE: "Once the minimum requirements are met, the examiner has an obligation to consider the information." Notice of April 20, 1992 (1138 O.G. 37-41, 37).

Section 1. Preliminary statements

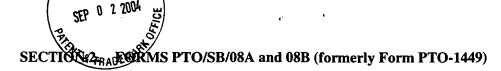
Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. section 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability, or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

In addition to the Form PTO/SB/08A, also enclosed are the following:

Information Disclosure Statement dated April 1, 1998 Declaration of Pamela Cleveland dated March 30, 1997 Declaration of Eric Dickman dated March 30, 1998 Declaration of Eric Dickman dated July 16, 1997 Declaration of Eric Dickman dated January 30, 1996 Litigation Disclosure Statement dated August 31, 2004



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Percival Attorney Docket: 1348/111

Serial No: 10/709,040 Art Group Unit: 2186

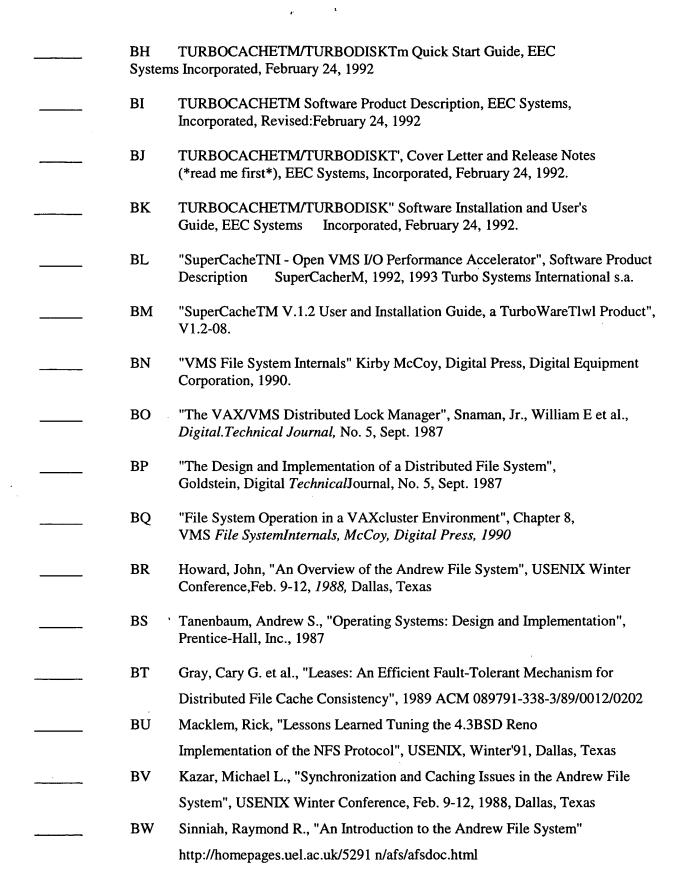
Date Filed: April 8, 2004 Examiner Name: N/A

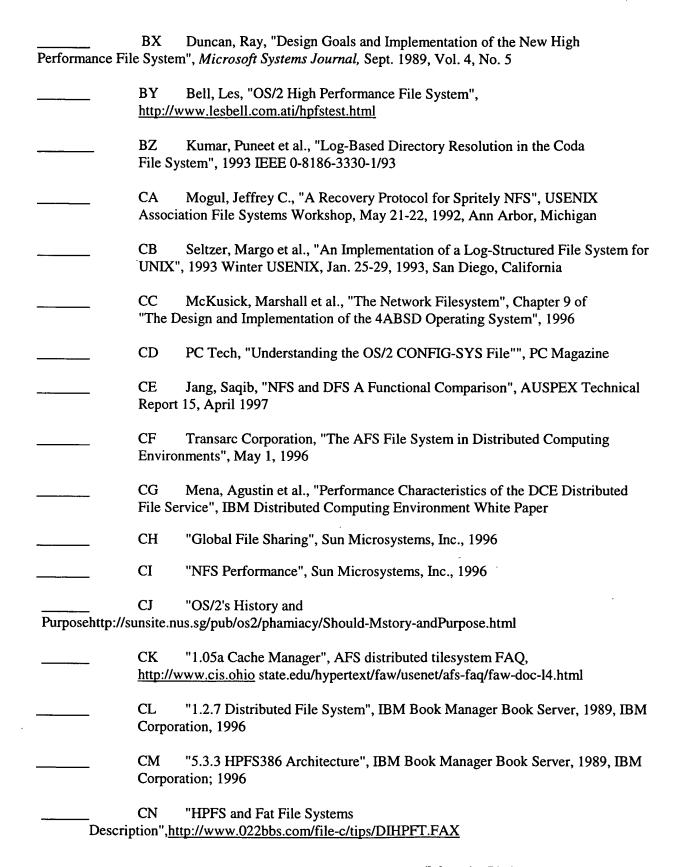
Invention: A Method and System for Coherently Caching I/O Devices Across a Network

LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT

Examiner Initials	Refere Numbe		t Issue Date umber	Inventor	Class/Subclass
	AA	3,820,078	June 25, 1974	Curley et al.	395/250
	AB	4,755,930	Jul. 5, 1988	Wilson, Jr. et al.	395/449
	AC	4,775,955	Oct. 4, 1988	Liu	395/472
	AD	4,849,879	Jul. 18, 1989	Chinnaswamy et al.	395/60
	AE	5,025,366	Jun. 18, 1991	Baror	395/455
***	AF	5,060,144	Oct. 22, 1991	Sipple et al.	395/726
	AG	5,062,055	Oct, 19, 1991	Chinnaswamy et al	364/551.01
	AH	5,067,071	Nov. 19, 1991	Schanin et al.	395/293
	ΑI	5,091,846	Feb. 25, 1992	Sachs et al.	395/250
	AJ	5,136,691	Aug. 4, 1992	Baror	395/466
	AK	5,185,878	Feb. 9, 1993	Baror et al.	395/450
	AL	5,241,641	Aug. 31, 1993	Iwasa et al.	395/449
	AM	5,265,235	Nov. 23, 1993	Sindhu et al.	395/447
	AN	5,282,272	Jan. 25, 1994	Guy et al.	395/200.0
	AO	5,307,506	Apr. 26, 1994	Colwell et al.	395/800
	AP	5,323,403	Jun. 21, 1994	Elliott	371/37.6
	AQ	5,335,327	Aug. 2, 1994	Hisano et al.	395/250
	AR	5,347,648	Sept. 13, 1994	Stamm et al.	395/182.0
	AS	5,353,430	Oct. 4, 1994	Lautzenheiser	395/444
	AT	5,363,490	Nov. 8, 1994	Alferness et al.	395/581

	AU	5,390,318	Feb. 13, 1995	Ramakrishnan et al.	395/485
	AV	5,426,747	Jun. 20, 1995	Weinreb et al.	395/413
	AW	5,606,681	February – 1997	Smith et al.	395/445
	AX	5,452,447	November – 1995	Nelson et al.	395/440
	AY	5,566,315	October – 1996	Milillo et al.	395/440
	CZ	5,301,290	Apr. 5, 1994	Tetzlaff et al.	395/425
	DA	5,408,653	Apr. 18, 1995	Josten et al.	395/600
Foreign Patent Documents					
Examiner Initials	Refere Numb		ment Issu Number	e Date	
	AZ	JP64-	36351 May	y 24, 1989	
OTHER REFERENCES					
Exam.	Ref.				
<u>Init.</u>	<u>No</u> .		<u>Document</u>		
	BA "The Stanford Dash Multiprocessor", Lenoski et al., IEEE Computer Society, March 1992, pp. 63-79.				
· 	BB "Cache-Coherency Protocols Keep Data Consistent", Gallant, J., Electronic Technology for Engineers and Engineering Managers, March 14, 1991.				
	BC "Disk Cache Replacement Policies for Network Fileservers", Willick, D.L., Distributed Computing Systems, 1993 Int'1. Conf., pp.2-11.				
	BD "xFS; A Wide Area Mass Storage File System", Wang, Randolph Y. et al., Workstation Operating Systems, 1993, pp. 71-178.				
	BE "Linked List Cache Coherence for Scalable Shared Memory Multiprocessors", Thapar, Manu et al., Parallel Processing, 1993 Symposium, pp. 34-43.				
	BF "The S3.Manufacturing Procedure Scalable Shared MemoryMultiprocessor", Nowatzyk, Andreas et al., System Sciences, 1994 Ann. Hawaii Int'l. Conf., Vol, I, 1/4/94, pp. 144-153.				
	BG TURBOCACHET""/TURBODISKTM Software Product Description, EEC Systems, Incorporated, Revised February 24, 1992.				





	CO Bowen, Ted S. "EEC ups ante in VMS disk caching arena with three-tiered package for VAXClusters." Digital Review, Cahners Publishing Co., March 16, 1992 v9 n6 p6(1).
	CP "I/0 Express User's Guide", Executive Software International, Glendale, CA.; June 1990.
	CQ "I/0 Express Technical Reports", Executive Software International, Glendale, CA.; February 1992 - January 1993.
· · · · · · · · · · · · · · · · · · ·	CR "Field Test Guide for I/0 Express Dynamic Data Caching for VAX/VMS", Executive Software, Glendale, CA.' 9/1989.
	CS "Diskeeper User's Guide V2.1- Errata'", Executive Software, Glendale, CA.; April 1989.
	CT "Executive Software's Newkeeper", Executive Software, Glendale, CA.; Vol. 4 Issue 4, 1991.
	CU "SuperCache-Open VMS I/O Performance Accelerator", TurboSystems International s.a., distributed by EEC Systems, Inc., Sudbury, MA. 1993
	CV "Executive Software's Newskeeper", Executive Software, Glendale, CA., Vol. 3, Issue 8, May/June 1990.
	CW "Executive Software's Newskeeper", Executive Software, Glendale, CA., Vol. 3, Issue 9, July/August 1990.
	CX "Executive Software's Newskeeper", Executive Software, Glendale, CA., Vol. 4, Issue 1, 1991.
	CY "Executive Software's Newskeeper", Executive Software, Glendale, CA., Vol. 4, Issue 3, 1991
Examiner Sign	;nature:
Date Consider	red:
line through c	: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw citation if not in conformance and not considered. Include copy of this form with next

Section 4. Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted

NOTE: "A copy of any patent, publication or other information listed in an information disclosure statement is not required to be provided if it was previously cited by or submitted to the Office in a prior application, provided that the prior application is properly identified in the statement and relied upon for an earlier filing date under 35 U.S.C. 120." 37 C.F.R. section 1.98(d).

WARNING: "This exception to the requirement for copies of information does not apply to information which was cited in an international application under the Patent Cooperation Treaty." Notice of April 20, 1992 (1138 O.G. 37-41, 38).

WARNING: "Information which is cited or submitted to the Office in the parent application of a file wrapper continuing application under 37 C.F.R. section 1.62 will be part of the file before the examiner and need not be resubmitted in the continuing application. Likewise, the examiner will consider information cited or submitted to the Office in a parent application when examining a continuing application and thus this information need not be resubmitted unless applicant desires the information to be printed on the patent." Notice of April 20, 1992 (1138 0.G. 37-41, 37).

WARNING: While a copy of a non-English language item of information need not be submitted, if it was previously submitted to, or cited by, the Office in a prior application, provided it is properly identified in this statement and this application relies on that earlier filing date under 35 U.S.C. 120, nevertheless, the requirement in section 1.98(a)(3) for a concise explanation of non-English language information would not be satisfied by a statement that a reference was cited in the prosecution of a parent application. The concise explanation must explain the relevance, as presently understood by the person designated in section 1.56(c) most knowledgeable about the content of the information. Notice of January 9, 1992, 1135 0.G. 13-25, at 20.

This application relies, under 35 U.S.C. § 120, on the earlier filing date of prior application S.N. 10/683,853, filed October 10, 2003, which relies upon prior application S.N. 10/052,873 filed on January 16, 2002 issued as U.S. Patent No. 6,651,136 which claims priority from application S.N. 09/300,633 filed on April 27, 1999 issued as U.S. Patent No. 6,370,615 on April 9, 2002. This application also relies, under 35 U.S.C. § 120 on the earlier filing date of S.N. 08/657,777, filed on May 31, 1996 issued as U.S. Patent No. 5,918,244 and S.N. 08/238,815, filed on May 6, 1994 issued as U.S. Patent No. 5,577,226.

(complete the following, if applicable)

The following references were submitted to, and /or cited by, the Office in the prior application(s) and, therefore, are not required to be provided in this application:

AA-DA

Copies of these references can be found in at least the file of application S.N. 09/300,633 filed on April 27, 1999 and issued as U.S. Patent No. 6,370,615.

Section 10. Identification of Person(s) Making This Information Disclosure Statement

The person making this certification is	
(check ea	ach applicable item)
(a) []the inventor(s) who signs below	
	SIGNATURE OF INVENTOR
	(type name of inventor who is signing)
(b) []an individual associated with the fil 1.56(c))	ling and prosecution of this application (37 C.F.R. section
	SIGNATURE OF INVENTOR
	(type name of inventor who is signing)
(c) [x] the practitioner who signs below or	n the basis of the information:
(check ed	nch applicable item)
[] supplied by the inventor(s	s).
	dual associated with the filing and prosecution of this C.F.R. section 1.56(c)).
[x] in the practitioner's file.	SIGNATURE OF PRACTITIONER
Reg. No.: 30,445	Robert M. Asher
Tel. No.: (617) 443-9292	(type or print name of practitioner) Bromberg & Sunstein LLP 125 Summer Street, 11 th Floor P.O. Address
Customer No.: 002101	Boston, MA 02110
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oplicant:

Percival

Att'y Docket: 1348/111

App. No.:

10/709,040

Art Unit:

2186

Filing Date:

April 4, 2004

Examiner:

N/A

For: Method and System for Coherently Caching

Date: August 31, 2004

I/O Devices Across a Network

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

LITIGATION DISCLOSURE STATEMENT

Pursuant to the MPEP \$2001.06(c) applicant wishes to bring a pending litigation to the attention of the U.S. Patent and Trademark Office. Civil Action No. C-04-214, pending in the District Court for the Southern District of Texas, Corpus Christi Division, is a patent infringement suit brought by SuperSpeed Software, Inc. against Oracle involving the parent patents to the present application. The patents named in the lawsuit include U.S. Patent No. 5,577,226; 5,918,244; 6,370,615; and 6,651,136.

Respectfully submitted,

Robert M. Asher Reg. No. 30,445

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Attorney for Applicant

01348/00111 332036.1